

NEW JERSEY RACING COMMISSION

Horse Racing

Eligibility; Registration required

Proposed Amendment: N.J.A.C. 13:70-6.53

Authorized by: New Jersey Racing Commission
Frank Zanzuccki, Executive Director

Authority: N.J.S.A. 5:5-49 and 5:5-66

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004-175

Submit written comments by July 2, 2004 to:

Frank Zanzuccki, Executive Director
New Jersey Racing Commission
P.O. Box 088, 140 E. Front Street
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Racing Commission requests comment regarding proposed amendments to N.J.A.C. 13:70-6.53 that establish registration requirements to participate in races restricted to New Jersey bred foals as authorized by N.J.S.A. 5:5-49 and 5:5-66. The thoroughbred breeding industry in the State is experiencing a continual decline in the number of New Jersey bred horses foaled each year and the number of stallions standing in New Jersey. In an attempt to reverse this trend, the Thoroughbred Breeders' Association of New Jersey petitioned (see 35 N.J.R. 4332(b) and 4921(b)) the New Jersey Racing Commission to amend its rules to redefine New Jersey bred foal to include those horses sired by a registered New Jersey stallion standing in New Jersey, even though the mare foals outside of New Jersey. As a result, the progeny of any mare conceived in New Jersey by a

registered New Jersey stallion will be eligible to compete in restricted races in the State and receive a breeder award to be determined by the Thoroughbred Breeders' Association of New Jersey, initially established at 20 percent.

N.J.A.C. 13:70-6.53(a) is amended to change eligibility to include "accredited" and/or "non-accredited foals."

N.J.A.C. 13:70-6.53(b) is amended to establish the change in qualifications for registration to include horses conceived by a resident "New Jersey stallion" to further define New Jersey mare to include a mare purchased at auction subsequent to August 17th of the year prior to breeding as being considered a New Jersey mare; to remove all reference to non-resident breeder in paragraph (b)2; and to redefine "New Jersey stallion."

The amendments to N.J.A.C. 13:70-6.53(c) delete references to a horse being bred where it is foaled and the breeder being the owner of the dam at time of foaling, since they are defined elsewhere. The amendments also expand the definition of New Jersey bred foal to include "accredited" and "non-accredited" foals. "Accredited" is the existing category of New Jersey bred foal that is foaled in New Jersey by a resident New Jersey mare. "Non-accredited" foal includes, as a New Jersey bred foal, a horse conceived in New Jersey by a "New Jersey stallion," but not foaled in New Jersey.

Proposed new N.J.A.C. 13:70-6.53(d) adds the definitions of "horse owner," "breeder," and "stallion owner" and establishes that awards may differ between "accredited" and "non-accredited" New Jersey bred horses. Existing subsections (d), (e) and (f) are recodified as subsections (e), (f) and (g).

Recodified N.J.A.C. 13:70-6.53(e) is amended to eliminate reference to New Jersey bred thoroughbred and adds reference to "accredited" and "non-accredited" New Jersey bred foal.

Recodified N.J.A.C. 13:70-6.53(f)1 is amended to add the word “foal” for clarity purposes; paragraph (f)2 is amended to delete “the State” and add “the Thoroughbred Breeders’ Association of New Jersey” as the recipient of breeders awards earned by an ineligible horse; and paragraph (f)3. is amended to add the word “foals” for clarity purposes, and add “New Jersey stallions” as being subject to registration requirements and penalties.

Existing N.J.A.C. 13:70-6.53(g) is deleted since it is reworded and included as paragraph (b)2 and subsection (h) remains unchanged.

The Racing Commission provides for a 60 day comment period on this notice of proposal. Therefore, this proposal is exempt from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30-3.3(a)5.

Social Impact

Preservation of open space as a result of increased breeding farm activity is a quality of life issue that will be enhanced by changes to these rules. Breeding farms that are struggling financially now will have a better chance to succeed thus retaining desirable open space. The proposed amendments to N.J.A.C. 13:70-6.53 will have a positive social impact on the horse breeding industry specifically the Thoroughbred Breeders’ Association of New Jersey in that the quantity and quality of New Jersey bred foals should increase, possibly resulting in increases in membership and status.

In addition, the horse race industry in New Jersey will benefit from an increase in the number of horses available to compete in New Jersey bred races and the potential increase in stature of New Jersey racing. Large numbers of quality horses competing in races in New Jersey will most likely result in an increase in attendance and wagering at racetracks and other venues, producing greater entertainment value for the public at large.

Economic Impact

Breeding and racing of New Jersey Thoroughbreds are integral parts of the State's billion dollar horse racing industry. The proposed amendments to N.J.A.C. 13:70-6.53 provide impetus to breeders to increase production of New Jersey foals, by including in that definition horses conceived in New Jersey by New Jersey registered stallions, but foaled outside of the State. This will allow more horses to qualify for New Jersey Breeders awards included in purses in restricted races, thereby increasing revenues for breeders.

Owners, trainers, jockeys, stable employees, horsemen's associations, breeders, and racetrack associations rely on revenues from wagering for their income. Thus, the racing community at large will benefit from higher revenues derived from a probable upswing in wagering activity associated with more competitive horse racing.

Federal Standards Statement

A Federal standards analysis is not required because the rules of racing are dictated by State statute, N.J.S.A. 5:5-22 et seq., and the proposed amendments are not subject to any Federal requirements or standards.

Jobs Impact

The proposed amendments will encourage an increase in breeding activity at New Jersey thoroughbred breeding farms and possibly spur the development of more breeding establishments. These events should result in the creation of more employment opportunities in the industry.

Once foals are of racing age (two years), the racetracks should realize an increase in the number of horses entered in New Jersey races. The more competitive the racing, the more attractive the racing becomes to the betting public, resulting in higher revenue to the industry. Thus, the potential increase in employment in the horse racing industry is enhanced by this increased breeding activity.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry in the State. Racehorses are not considered livestock for the purpose of determining any impact on the agriculture industry.

Regulatory Flexibility Statement

Thoroughbred breeding farms and training facilities are considered small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments to N.J.A.C. 13:70-6.53 impose increased, but similar, reporting, recordkeeping and compliance requirements on these small businesses. Existing staff at most facilities should be able to absorb the additional reporting and recordkeeping generated by increased breeding activity, but some facilities might need additional staff or office equipment to handle the increased workload. Racing Commission rules require licensing of all individuals working on thoroughbred training and boarding facilities as well as licensing of the establishment and owners thereof. Any increase in staff or any new facilities created as a result of the enactment of these amendments will require payment of fees associated with compliance with Racing Commission rules. Since annual license fees do not exceed \$100.00, economic impact will be minimal.

The Thoroughbred Breeders' Association of New Jersey requires payment of registration fees in order to participate in the Breeders awards program. The economic benefits of participation in this program far outweigh the costs of registration. Thus, any economic impact on program participants will be negligible.

Smart Growth Impact

The proposed amendments to N.J.A.C. 13:70-6.53 will have a positive effect on the smart growth policies associated with the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4(2002). Retention and/or increase in open space are major components of the Plan. Thoroughbred breeding farms and training facilities occupy substantial amounts of open space in New Jersey at present. Providing impetus for increased economic growth in this industry will result in the retention these open spaces or perhaps an increase in the amount of open space if new facilities are developed.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

13:70-6.53 Eligibility; registration required

(a) In order to be eligible to enter and start in races exclusively for New Jersey bred foals, each [horse] **New Jersey bred “accredited” and/or “non-accredited” foal** must be registered with the Thoroughbred Breeders' Association of New Jersey.

(b) To qualify for such registration, the said horse must have been foaled in the State of New Jersey **[and:] by a resident New Jersey mare or conceived by a resident “New Jersey Stallion.”**

1. [For the resident breeder, he or she must a resident of New Jersey or an individual or entity that maintains a breeding farm in New Jersey; or] **A resident New Jersey**

mare is a mare that resides in New Jersey continuously from September 1 of the year prior to the foaling through the date of foaling. A mare purchased at public auction subsequent to August 17th of the year prior to foaling, is considered a resident New Jersey mare provided that she commences residence in New Jersey within two weeks of her purchase and continuously resides in New Jersey through the date of foaling. For the purpose of this paragraph, public auction is defined as an auction generally regarded as a public auction in the thoroughbred horse industry and recognized as same by the Thoroughbred Breeders' Association of New Jersey.

2. [For the non-resident breeder, who is an individual non-resident, or an entity not owned entirely by New Jersey residents, the foal must meet one of the following conditions:

i. Be the produce of a mare conceived in New Jersey the previous season by a registered stallion; or

ii. If conceived outside of New Jersey, the mare must be bred to a registered New Jersey stallion the season of the birth of said foal; or

iii. If conceived outside of New Jersey by a resident mare which leaves New Jersey for breeding purposes, the resident mare must return by September 1 of that year and verification may be required; or

iv. A non-resident breeder having a mare foal for the first time in New Jersey must have a mare in the State 30 days before foaling if it was bred out of State, and in subsequent years shall follow the rules and regulations for a resident mare owned by a non-resident breeder.] “New Jersey stallion” is a stallion resident and standing in the State of New Jersey the full breeding season, commonly understood to be the period from February 1 through July 1 of the subject year. If a stallion is brought into New Jersey subsequent to the start of the

breeding season, he may approved as a “New Jersey stallion” by the New Jersey Racing Commission upon recommendation of the Board of Trustees of the Thoroughbred Breeders’ Association of New Jersey provided that he stands and is resident in New Jersey for the remainder of the breeding season. For those stallions brought into New Jersey subsequent to the commencement of the breeding season, approval by the Thoroughbred Breeders’ Association of New Jersey as a “New Jersey stallion” is only for the period from the date of approval through the end of the breeding season. All “New Jersey stallions” must be registered with the Thoroughbred Breeders’ Association of New Jersey and all appropriate annual fees paid prior to February 1 of the breeding season or, in the case of a stallion entering the State subsequent to the start of the breeding season, prior to serving the first mare. Failure to meet the above criteria solely by reason of the death of the stallion does not disqualify said stallion as a “New Jersey stallion.”

(c) [A horse is bred where it is foaled. The breeder is the owner of the dam at the time of foaling.] Only New Jersey bred foals as defined below are eligible to enter and start in races exclusively for New Jersey bred foals. New Jersey bred foals are placed in two categories which are defined as follows:

1. An “accredited” New Jersey bred foal is a horse that is:

i. Registered with the Jockey Club;

ii. Foaled in New Jersey during a period in which the mare is considered a resident

“New Jersey mare” as defined in (b)1 above; and

iii. Registered with the Thoroughbred Breeders’ Association of New

Jersey with all applicable fees paid prior to one year after the

foaling date by the “breeder” of the foal.

2. A “non-accredited” New Jersey bred foal is a horse that is:

i. Registered with the Jockey Club;

ii. Conceived in New Jersey by a “New Jersey stallion” as defined in

(b)2 above but not foaled in New Jersey; and

iii. registered with the Thoroughbred Breeders’ Association of New

Jersey with all applicable fees paid.

(d) Awards, if any, for “horse owners,” “breeders,” and/or “stallion owners” from races exclusively for New Jersey bred foals may differ between “accredited” New Jersey bred horses and “non-accredited” New Jersey bred horses in accordance with rules established and changed from time to time by the Thoroughbred Breeders’ Association of New Jersey.

1. “Horse owner” is owner or lessee of record of a horse with the Jockey Club and Race Secretary at the time of the race.

2. “Breeder” of a foal is owner of the dam at the time of foaling as stated on the foal’s Jockey Club certificate of registration.

3. “Stallion owner” is the owner of record of the stallion at the time of conception of the subject foal. In order to be eligible for “stallion owner” awards, the subject foal must have been conceived in New Jersey.

[(d)] (e) The breeder is responsible for the registering of the foal as [a New Jersey bred thoroughbred] an “accredited” or “non-accredited” New Jersey bred foal.

[(e)] (f) A breeder who registers or attempts to register a foal based upon false or fraudulent information may be subject to any or all of the following sanctions by the Thoroughbred

Breeders’ Association:

1. The horse may no longer be considered a New Jersey bred **foal**;
2. Any New Jersey breeder awards earned by an ineligible horse shall be forfeited to [the State] **the Thoroughbred Breeders' Association of New Jersey**;
3. The breeder may be denied the privilege of registering any horses as [a] New Jersey bred **foals or as New Jersey stallions** for a time period determined by the Thoroughbred Breeders' Association.
4. (No change.)
[(f)] **(g)** (No change in text.)
[(g) To be considered a New Jersey stallion, it is required that the stallion stand in the State of New Jersey the full breeding season, commonly understood to be the period from February 1 through July 1 of any year, and remain in the State, or if the stallion is brought in subsequent to the start of the breeding season, he must be approved a New Jersey stallion by the New Jersey Racing Commission upon recommendation of the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey and the appropriate annual fee paid to the Association prior to serving the first mare in the State of New Jersey and annually thereafter prior to February 1.
 1. Should any stallion die in New Jersey prior to completion of one full breeding season he may also be considered a New Jersey stallion upon approval of the New Jersey Racing Commission upon recommendation of the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey.]
- (h) (No change)